THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21428 of 2005

Oral order:

The petitioner, who is working in the 1st respondent-University as Roneo Operator has filed this writ petition seeking a direction to the 1st respondent-University to alter/change his date of birth in the service record from 08.03.1949 to 07.06.1954 based on the Community, Nativity and Date of Birth Certificate issued by the 3rd respondent-Mandal Revenue Officer.

The petitioner joined the service of the 1st respondent-University in the year 1979. At the time of joining the service, the petitioner states that the 1st respondent-University has wrongly entered his date of birth in the service records as 08.03.1949. The petitioner states that he made an application for issuance of Community, Nativity and Date of Birth Certificate, and the 3rd respondent-Mandal Revenue Officer, after elaborate enquiry issued Community, Nativity and Date of Birth Certificate, showing his date of birth as 07.06.1954. Based on the date of birth, as reflected in the Community, Nativity and Date of Birth Certificate, the petitioner states that he appeared for SSC examination, and in the SSC certificate also, his date of birth was shown as 07.06.1954. The petitioner states that since his date of birth was wrongly entered in the service records as 08.03.1949, he made representations dated 05.02.2004 and 21.08.2004 to the 1st respondent-University, seeking correction of his date of birth, but the 1st respondent-University referred the matter to the 2nd respondent-Government, who vide proceedings dated 18.07.2005

informed the 1st respondent-University that it is not possible to entertain the claim of change of date of birth, and accordingly the 1st respondent-University, vide proceedings dated 18.08.2005, communicated the same to the petitioner. Hence, he filed this writ petition seeking direction to the 1st respondent-University to correct his date of birth from 08.03.1949 to 07.06.1954.

The learned counsel for the petitioner submits that the 3rd respondent-Mandal Revenue Officer after making elaborate enquiry, has issued Community, Nativity and Date of Birth Certificate to the petitioner showing his date of birth as 07.06.1954, and on the strength certificate, he also appeared for SSC examination, and in the SSC certificate also, he date of birth was shown as 07.06.1954. He submits that as at the time of joining into service, the date of birth of the petitioner was wrongly entered in the service records as 08.03.1949, he made representations to the 1st respondent-University, seeking correction of his date of birth, but the 1st respondent-University referred the matter to the 2nd respondent-Government, who vide proceedings dated 18.07.2005, as communicated by the 1st respondent-University to the petitioner, informed the 1st respondent-University that the request of the petitioner for change of date of birth cannot be entertained. The learned counsel submits that since the 3rd respondent-Mandal Revenue Officer has issued the Community, Nativity and Date of Birth Certificate after elaborate enquiry, the genuineness thereof cannot be doubted, and the action of the 2nd respondents in rejecting the request of the petitioner for change of his date of birth, is illegal and arbitrary, and more so when the petitioner is the employee of the 1st respondent-University, and prayed for

directions to the 1st respondent-University to correct the date of birth to the one as reflected in the Community, Nativity and Date of Birth Certificate and SSC Certificate.

The 1st respondent-University filed detailed counter. The learned Standing Counsel for the 1st respondent-University and the learned Government Pleader for Higher Education for the 2nd respondent-Government submitted that the date of birth as communicated by the Employment Exchange was recorded in the service records as 08.03.1949 and the petitioner subscribed his signature to the same, and as per the procedure, the then Director also attested the same. The petitioner after putting in 20 years of service, approached the 3rd respondent-Mandal Revenue Officer, and based on the declaration given by the petitioner and his parents, the 3rd respondent-Mandal Revenue Officer, issued Community, Nativity and Date of Birth Certificate showing his date of birth as 07.06.1954, and on the strength of the said certificate, he even appeared SSC, and in the SSC certificate, his date of birth was recorded as 07.06.1954. He submitted that in relation to service matters, if the statutes of the 1st respondent-University do not specifically provide for any particular aspect, the 1st respondent-University is following the State Government Service Rules. He submitted that in the absence of any Rules framed by the 1st respondent-University for alteration/change of date of birth, the 1st respondent-University is following the Rules framed by the Government in G.O. Ms. No. 165, Finance and Planning, dated 21.04.1984. The said G.O., prescribes that the date of birth once determined and entered in service record shall not be altered. Even in case of bona fide clerical errors, the date of birth can be altered only

under the orders of the Government. They submitted that the 3rd respondent-Mandal Revenue Officer has no authority whatsoever to determine the date of birth of the petitioner. Therefore, no exception can be taken to the orders passed by the 2nd respondent, informing the 1st respondent-University that the request of the petitioner for correction of his date of birth cannot be entertained.

Heard the learned counsel for the petitioner, the learned Standing counsel for the 1st respondent-University and the learned Government Pleader for Higher Education for the 2nd respondent-University.

At the time of joining, the date of birth of the petitioner, admittedly, was entered in the service records as 08.03.1949. Though the petitioner contends that his date of birth was wrongly entered in the service records, the fact remains, he has not raised any objection as to the wrong entry immediately after joining the service, but he sought correction of his date of birth after lapse of 20 years, and that too based on the Community, Nativity and Date of Birth Certificate, issued by the 3rd respondent-Mandal Revenue Officer. Though the petitioner contends that the Community, Nativity and Date of Birth Certificate, issued by the 3rd respondent-Mandal Revenue Officer, cannot be doubted, in that it was issued after elaborate enquiry, it is the case of the 1st and 2nd respondents that the 3rd respondent-Mandal Revenue Officer, has no authority to determine the date of birth of the petitioner.

Be that as it may, a perusal of the Community, Nativity and Date of Birth Certificate, issued by the 3rd respondent-Mandal Revenue Officer, shows that it was not issued on the strength of any school records or date of birth certificate, but on the strength of the declaration of the petitioner and his parents. Since the petitioner and his parents

declared that the petitioner's date of birth is 07.06.1954, the 3rd respondent-Mandal Revenue Officer, issued Community, Nativity and Date of Birth Certificate, reflecting the date of birth of the petitioner as 07.06.1954. The petitioner having obtained the Community, Nativity and Date of Birth Certificate, admittedly, appeared for SSC examination, and since the petitioner in the application submitted by him for appearing SSC examination, mentioned his date of birth as reflected in the Community, Nativity and Date of Birth Certificate, the SSC Certificate reflected the date of birth of the petitioner as 07.06.1954. Inasmuch as the date of birth of the petitioner, as reflected in the Community, Nativity and Date of Birth Certificate, issued by the 3rd respondent-Mandal Revenue Officer, is based on his and his parents declaration, no credence can be placed thereon, and as a consequence thereof, the date of birth as reflected in the SSC certificate, also cannot be relief, for it was entered therein on the strength of the Community, Nativity and Date of Birth Certificate, issued by the 3rd respondent-Mandal Revenue Officer.

Apart from the above, it is stated that the 1st respondent-University has not framed any Rules to deal with cases of change of date of birth, and it is following the Rules framed by the Government in G.O. Ms. No. 165, Finance and Planning, dated 21.04.1984, and as per which, the date of birth determined and entered in the service record shall not be altered and that even in cases of *bana fide* clerical errors, the same can be corrected only under the orders of the 2nd respondent-Government. In view of the said Rules, no exception can be taken either to the proceedings dated 18.07.2005 of the 2nd respondent-Government informing the

1st respondent-University on the reference made by the 1st

respondent-University that the request of the petitioner for change of date of birth cannot be entertained or to proceedings dated 18.08.2005 of the 1st respondent-University, which communicated the decision of the 2nd respondent-Government to the petitioner.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed.

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N.V. RAMANA, J.

Dated: 16th March, 2007.
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